

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

CHARLES ELLIS, SR.,

Plaintiff,

v.

KERN COUNTY SHERIFF  
DEPARTMENT, et al.,

Defendants.

No. 1:22cv-1209 JLT SAB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DENYING  
DEFENDANT'S MOTION TO DISMISS

(Docs. 21, 35)

Plaintiff seeks to hold Sgt. Escandon and the County of Kern liable for the use of excessive force in violation of his rights arising under the Fourteenth Amendment. (Doc. 9) The County moved to dismiss Plaintiff's claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, asserting Plaintiff failed to allege facts sufficient to impose municipal liability upon the County. (Doc. 21.)

The assigned magistrate judge found Plaintiff stated a cognizable claim against the County, because "when viewed in the light most favorable to Plaintiff, ...[he] sufficiently stated that the County's policy of allowing custody staff to disapprove of medical professional's recommendations was the moving force behind Plaintiff's claim of deliberate indifference." (Doc. 35 at 6.) Therefore, the magistrate judge recommended the County's motion to dismiss be denied. (*Id.*) The Court served the Findings and Recommendations on the parties and notified them that any objections were due within 21 days. (*Id.*) The Court advised them also that the

“failure to file objections within the specified time may result in the waiver of rights on appeal.”  
(*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) No objections were  
filed, and the time to do so expired.

According to 28 U.S.C. § 636(b)(1)(C), the Court performed a *de novo* review of this case.  
Having carefully reviewed the entire matter, the Court concludes the Findings and  
Recommendations are supported by the record and by proper analysis. Thus, the Court **ORDERS**:

1. The Findings and Recommendations issued on October 17, 2023 (Doc. 35), are  
**ADOPTED** in full.
2. Defendant’s motion to dismiss (Doc. 21) is **DENIED**.
3. Defendants **SHALL** file an answer within fourteen days from the date of service  
of this order.

IT IS SO ORDERED.

Dated: **November 28, 2023**

  
UNITED STATES DISTRICT JUDGE